



# State of Idaho Council for the Deaf and Hard of Hearing

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## ACCESS TO MEDICAL OFFICES

### AMERICANS WITH DISABILITIES ACT REQUIREMENTS FOR MEDICAL OFFICES

#### What is the ADA?

The Americans with Disabilities Act (ADA) requires that public accommodations make their facilities, goods and services accessible for all people with disabilities. Title III of the ADA specifically covers privately operated medical and health care facilities. Examples of such facilities are offices of doctors, dentists, optometrists, psychiatrists, other medical offices. The ADA also covers offices of private medical and health care providers located in private homes.

#### Who is Protected?

Under the ADA a person with a disability is someone with a physical or mental impairment that substantially limits one or more major life activities, or someone with a record of such an impairment or who is regarded as having such an impairment. Examples of a few disabilities include orthopedic, visual, and hearing impairments.

#### What does the ADA require?

The ADA requires that public accommodations must make reasonable modifications to their policies, practices, and procedures in order to make their goods and services available to people with disabilities, unless the business can demonstrate that a modification would fundamentally alter the nature of services provided. For example, a medical office with a blanket "no pets allowed" policy must modify the policy by making an exception for service animals used by persons with disabilities, including a hearing dog. Access may be denied if the animal would compromise health and/or safety standards, such as in an operating room. Medical offices are required to communicate effectively with patients who are hearing impaired by whatever means are appropriate. The term auxiliary aids and services refer to the means for achieving effective communication. This includes sign language interpreters, written materials, assistive listening devices, amplified telephones, Telecommunication Devices for the Deaf (TDD), or other aids. The auxiliary aid requirement is a flexible one to provide effective communication appropriate for the circumstance. For example, for simple communications if a hard of hearing person is having trouble understanding, using pen and note pad might work. An assistive listening system might be needed when there are several people in a discussion of treatment options.

The Department of Justice has provided the following advice:

Inquire – “Under the ADA, must a physician always provide interpreter services for a patient who is deaf and unable to speak?”

Response – “Under Title III of the ADA, public accommodations such as medical offices must ensure effective communications with persons with disabilities. Although auxiliary aids may be required to ensure effective communication, the ultimate choice of the means of communication rests with the physician. In cases involving medical treatment, writing and note taking may provide effective communication in routine situations. A qualified interpreter or other auxiliary aid may be necessary at times to allow for informed treatment recommendations and decisions. While the ultimate choice of the means of communication rests with the physician, the regulation strongly encourages a doctor to consult with a patient before providing a particular aid or service, to determine the most appropriate way to ensure communications are in fact effective. The medical office may require reasonable prior notice of the need for an auxiliary aid or service. If the chosen method is ineffective, however, the medical office may be held liable for an ADA violation.”

It is the responsibility of the medical office to make arrangements with the interpreter and to pay for the interpreting service. In order to assure that the interpreter is qualified, the office may ask the patient if they have an interpreter they have worked with before who has been effective.

#### Assistive Listening Devices and Phones

In order to assist with one-on-one communications with persons with hearing impairments an inexpensive assistive listening device can be kept in the office for use by staff. The medical office can use the telecommunications relay service for phone access by the deaf instead of having a TDD. If, however, phones are routinely available for patient use then amplified phones and TDDs must be made available.

#### **What about the cost of the auxiliary aid?**

The person with a disability cannot be charged for this assistance and the costs cannot be passed on to individuals with disabilities by a surcharge only on their care. A business need not provide an aid if the provision would be an undue burden on the business. Undue burden is defined as significant difficulty or expense when considered in light of the cost of the aid the overall resources of the business and is applied on a case by case basis.

#### Disability Access Tax Credit

Small businesses with either \$1 million or less in gross receipts of 30 or fewer full time employees can get a tax credit for the cost of eligible access expenditures such as interpreters or assistive listening systems.

The credit is 50% of the cost over \$250 up to \$10,250 or a maximum of \$5,000.

Title 26, Internal revenue Code, section 44.

For further information or assistance contact the Council office.

#### **HOW TO FILE A TITLE III COMPLAINT**

If you feel you or another person has been discriminated against by a business covered under Title III, send a letter with the following information:

- 1) Your full name, address, and telephone number, and the name of the party discriminated against;

- 2) The name of the business, organization, or institution that you believe has discriminated;
- 3) A description of the act or acts of discrimination, the date or dates of the discriminatory acts, and the name or names of the individuals you believe discriminated; and
- 4) Other information that you believe necessary to support your complaint.

Please send copies of relevant documents. Do not send originals. Sign and send the letter to:

Disabilities Rights Section

U.S. Department of Justice

P. O Box 66738

Washington, D.C. 20035-6738

Department of Justice ADA Information Line:

1-800-514-0301 Voice

1-800-514-0383 TTY

They will investigate and decide whether to begin legal action. Any legal action will be taken on the behalf of the United States and not an individual. You will be informed of the Department's action. A person can also file their own case in U.S. District Court.